BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

Claimant VS.))) Docket No. 201,890
ROYAL TERRACE CARE CENTER Respondent)
AND	(
NATIONAL UNION FIRE INSURANCE COMPANY OF NEW YORK Insurance Carrier	}

ORDER

Claimant appeals from a Preliminary Hearing Order of July 24, 1995, wherein Administrative Law Judge Steven J. Howard denied claimant benefits finding claimant was not entitled to additional medical treatment per claimant's request.

ISSUES

- (1) (2) Whether or not claimant is entitled to temporary total disability compensation.
- Whether or not claimant is entitled to medical treatment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

K.S.A. 44-555b(a) grants review by the Board "upon questions of law and fact as presented and shown by a transcript of the evidence and the proceedings as presented, had and introduced before the administrative law judge."

The preliminary hearing held July 18, 1995, before Administrative Law Judge Steven J. Howard addressed claimant's request for additional medical treatment. No request for temporary total disability compensation was made at that time. As the Appeals Board has jurisdiction only to review findings of fact and questions of law as presented and shown by a transcript before the Administrative Law Judge and as the issue of temporary total disability compensation was never raised at the preliminary hearing of July 18, 1995, the Appeals Board finds this issue is not properly before the Appeals Board. As such, the claimant's appeal on this issue is dismissed.

Claimant further raises the issue regarding whether or not claimant is entitled to medical treatment. No allegation was made by claimant that the Administrative Law Judge in any way exceeded his jurisdiction in denying medical treatment.

It should further be noted that the specific jurisdictional issues listed in K.S.A. 44-534a dealing with whether claimant suffered an accidental injury, whether claimant's injury arose out of and in the course of her employment, whether notice was given or claim timely made, or whether certain defenses apply, were never raised by the claimant to the Appeals Board. As the Administrative Law Judge is specifically empowered under K.S.A. 44-534a(a)(1) to decide issues regarding the furnishing of medical treatment and the payment of temporary total disability compensation, and as neither of these issues are appealable from a preliminary hearing, it cannot be said that this appeal is properly before the Appeals Board. It cannot be found that the Administrative Law Judge in any way exceeded his jurisdiction in denying the relief requested. See K.S.A. 44-551 as amended by S.B. 59 (1995).

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal of claimant should be and is hereby dismissed and the Order of Administrative Law Judge Steven J. Howard dated July 18, 1995, remains in full force and effect.

Dated this day of October, 1995.	
BOARD MEN	MBER
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BOARD MEN	MBER

c: Steven D. Treaster, Overland Park, Kansas John B. Rathmel, Overland Park, Kansas Steven J. Howard, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED.